

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROBERT BOSCH LLC,

Plaintiff,

vs.

**SNAP-ON INC. and
DREW TECHNOLOGIES, INC.**

Defendants.

Case No. 12-11503-RHC-MAR

Honorable Robert H. Cleland

Magistrate Judge Mark A. Randon

STIPULATED ORDER OF DISMISSAL AND FINAL JUDGMENT

Upon consideration of this Court's Opinion and Order Construing Claims (Dkt. 123) and the parties' request for a Fed. R. Civ. P. 54(b) certification for immediate appeal, it is so ORDERED and stipulated by the parties that:

1. This litigation concerns the alleged infringement of Plaintiff's U.S. Patent No. 6,782,313 ("the '313 Patent") by Defendants.
2. Based on this Court's Opinion and Order Construing Claims (Dkt. 123), a FINAL JUDGMENT is entered for Defendants' Counterclaim Count II finding the claims of the '313 Patent INVALID due to indefiniteness of the claim terms "program recognition device" and "program loading device."
3. Because invalidity is a complete defense to infringement, the Court's finding does not leave any possibility that Plaintiff could still prove infringement. This Court GRANTS the parties' request for a Fed. R. Civ. P. 54(b) certification for immediate appeal of this Court's FINAL JUDGMENT because there is no just reason to delay appellate review.

4. Plaintiff's Claim of Infringement of the '313 Patent, Defendants' First, Second Third, Fourth, Fifth and Sixth Affirmative Defenses and Defendants' Counterclaim Counts I and III are MOOT and hereby disposed of through dismissal without prejudice to reassert such claims, defenses and counterclaims in the event of a remand or reversal following Plaintiff's appeal.

5. The Plaintiff and Defendants disagree as to whether Defendants' Motion for Leave to File First Amended Counterclaims (Dkt. 108) is moot. The parties however agree and it is ORDERED that Defendants' Motion (Dkt. 108) is STAYED pending Plaintiff's appeal, leaving the issue of mootness for consideration after the appeal. All other pending motions are MOOT and hereby DISMISSED without prejudice, and all other outstanding issues are MOOT.

6. This Order of Dismissal and Final Judgment is without prejudice to, and does not operate as a waiver of, Plaintiff's right to appeal this Court's finding that the claim terms "program recognition device" and "program loading device" are subject to 35 U.S.C. § 112, ¶ 6, and the Court's finding that these claim terms are indefinite, or Plaintiff's right to present any argument on appeal with respect to these Court findings. This Order of Dismissal and Final Judgment is without prejudice to, and does not operate as a waiver of any Party's right to appeal any other issue when such issue is ripe for consideration.

7. To the extent any party has a right to file a post-judgment motion, this Order of Dismissal and Final Judgment is without prejudice to and does not operate as a waiver of that party's right.

SO ORDERED:

/s/ Robert H. Cleland
HON. ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE
DATED THIS 23rd DAY OF SEPTEMBER 2013.